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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,014	12/30/2003	Sun-Chueh Kao	2002U035.US	6457

7590 11/02/2006
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HOUSTON, TX 77056-2746

EXAMINER

RABAGO, ROBERTO

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/748,014

Applicant(s)

KAO, SUN-CHUEH

Examiner

Roberto Rábago

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-63 is/are pending in the application.
- 4a) Of the above claim(s) 1-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 38-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The amendment filed 8/10/2006 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the newly stated definition for "catalyst component" does not find support in the specification. While the specification provides examples of compounds within the scope of "catalyst component," the specification as filed does not contain the language or equivalent meaning as that of amended paragraph [0019].

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 38-63 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(a) In claim 38 (and all claims dependent thereon), the intended scope of "catalyst component" is unclear because it cannot be determined whether the scope of

the component requires a catalyst compound, or whether it can be any component of a catalyst system. The specification defines "catalyst compound" as a transition metal compound activatable for olefin oligomerization/ polymerization [0019], but does not appear to require that a catalyst component contain a catalyst compound.

(b) Claim 56 (and all claims dependent thereon) are indefinite because the scope of "additionally discovered catalyst compound" cannot be determined.

Applicant's arguments filed 8/10/2006 have been fully considered but they are not persuasive. Regarding (a), traversal is based upon amendment to paragraph [0019] of the specification, wherein the definition of "catalyst compound" has been changed to a definition of "catalyst component." However, the amendment to [0019] has prompted an objection on the grounds that it has introduced prohibited new matter into the specification, and a requirement for the removal of said new matter has been made. Accordingly, the instant rejection will not be withdrawn on the basis of a prohibited amendment to the specification. Regarding (b), traversal is based upon amendment to the title prior to paragraph [0090] of the specification, wherein "Additional" has been changed to "Additionally Discovered." However, the ambiguity remains, in view of the term "discovered." The amended title and the paragraphs which follow provide examples of "additionally discovered catalyst compounds," however, this description is not definitive, but merely exemplary, and therefore the ordinary meaning of "additionally discovered" would include catalysts which have not yet been discovered. The claiming of subject matter not yet discovered is indefinite because one of ordinary skill in the art would not be able to determine the intended scope of the claims.

Claim Rejections - 35 USC § 102

5. Claims 38-50 and 52-63 are rejected under 35 U.S.C. 102(b) as being anticipated by Reddy et al. (US 6,214,949) for the reasons set forth in item 5 of the Office action mailed 4/13/2006.

Applicant's arguments filed 8/10/2006 have been fully considered but they are not persuasive. The previously cited method of Reddy contacts a supported ZN catalyst with a first metallocene, then with a second metallocene. Contact of the supported ZN catalyst with the first metallocene would necessarily result in at least some of the first metallocene becoming deposited on the surface of the supported ZN catalyst, forming the composition of step (a); further contact with the second metallocene results in the composition of step (b). Applicants argue that the reference "does not disclose the intimate intermingling of catalyst compounds on a common support, as required by claim 38." In fact, claim 38 requires no intermingling of any kind, it merely requires that a non-zero amount of at least two catalyst components be present on a support when a third catalyst component is contacted therewith. The reference teaches a catalyst composition within the scope of the claimed product-by-process, and therefore anticipates the claims.

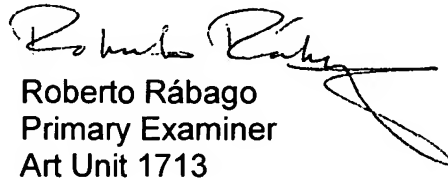
6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberto Rábago whose telephone number is (571) 272-1109. The examiner can normally be reached on Monday - Friday from 8:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Roberto Rábago
Primary Examiner
Art Unit 1713

RR
October 24, 2006